

AMENDED IN ASSEMBLY JUNE 2, 2009

AMENDED IN ASSEMBLY MAY 19, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 603

Introduced by Assembly Member ~~Price~~ Skinner

February 25, 2009

An act to add and repeal Sections 1940.97 and 2924.9 of the Civil Code, relating to mortgages.

LEGISLATIVE COUNSEL'S DIGEST

AB 603, as amended, ~~Price~~ Skinner. Mortgages and deeds of trust: foreclosure: tenants in possession of property.

Existing law governs foreclosure proceedings, including requiring specified notice to residents of property subject to a foreclosure sale. Existing law also governs residential tenancies.

This bill would ~~prohibit~~, until January 1, 2013, *limit the authority of an owner to terminate a tenancy of a qualified rental unit, as which would be defined to mean as real property that is rented or leased for residential purposes; whose owner acquired the property as a result of a default on a mortgage, as specified, from taking action to terminate any tenancy within one year of acquiring ownership, as specified, except under certain circumstances.* The bill would provide that, if the term of the tenancy has not been specified by the parties or is terminable at will, the owner shall not terminate the tenancy sooner than 90 days having passed after acquiring ownership. The bill would provide that, if the term of the tenancy has been specified by the parties, the owner shall not terminate the tenancy until the end of the remaining term of

the tenancy, but not sooner than 90 days having passed after acquiring ownership. The bill would provide that these limitations do not apply in certain circumstances, including the failure of when a tenant has failed to pay rent or a violation of has violated a condition of the tenancy, as described. The bill would also provide that a landlord who violates this provision would be liable to the tenant in a civil action for actual damages and a fine not to exceed \$100 for each day the landlord remains in violation of this provision, but not less than \$250 for each separate cause of action. The bill would authorize a tenant to seek injunctive relief, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1940.97 is added to the Civil Code, to
2 read:
3 1940.97. (a) (1) An owner of a qualified rental unit ~~shall not,~~
4 *as defined in subdivision (h), may take action to terminate any*
5 *tenancy within one year of acquiring ownership, including, but of*
6 *the rental unit only subject to the following limitations:*
7 (A) *If the term of the tenancy has not been specified by the*
8 *parties or is terminable at will, not sooner than 90 days having*
9 *passed after acquiring ownership.*
10 (B) *If the term of the tenancy has been specified by the parties,*
11 *at the end of the remaining term of tenancy, but not sooner than*
12 *90 days having passed after acquiring ownership.*
13 (2) *For purposes of this section, an action to terminate a tenancy*
14 *includes, but is not limited to, making a demand for possession of*
15 *a rental unit, threatening to terminate a tenancy, serving a notice*
16 *to quit or other eviction notice, or bringing an action to recover*
17 *possession or to be granted recovery of possession of a qualified*
18 *rental unit, unless one of the following applies: of a qualified rental*
19 *unit.*
20 (b) *The limitations provided by subdivision (a) shall not apply*
21 *in the following circumstances:*
22 (1) The tenant has not paid the rent due. The rent does not
23 become due within the meaning of this paragraph until the owner
24 has served the tenant a written notice informing the tenant of the
25 location where, and the manner in which, the tenant shall pay the

1 rent. The owner may not retroactively demand or collect rent for
2 rental periods before service of this notice.

3 (2) The tenant has violated a condition or covenant of the
4 tenancy, other than the obligation to surrender possession upon
5 proper notice, and has failed to cure the violation after having
6 received written notice thereof from the owner.

7 (3) The tenant is committing waste upon the premises, contrary
8 to the conditions or covenants of his or her lease, is maintaining,
9 committing, or permitting the maintenance or commission of a
10 nuisance upon the premises, or is using the premises for an
11 unlawful purpose.

12 (4) The owner is a natural person who seeks in good faith to
13 recover possession of the qualified rental unit for use and
14 occupancy by himself or herself, or by his or her spouse, child,
15 parent, or grandparent. The owner may use this ground only once
16 for each spouse, child, parent, or grandparent.

17 ~~(b)~~

18 (c) The owner shall comply with the procedural and notice
19 requirements of the law of this state, including Section 1161 of
20 the Code of Civil Procedure, before pursuing an unlawful detainer
21 action.

22 ~~(e)~~

23 (d) If the prior owner was responsible for maintaining utility
24 services, the owner of a qualified rental unit shall ensure that utility
25 services to the units are not interrupted or terminated.

26 ~~(d)~~

27 (e) The owner of a qualified ~~housing~~ rental unit shall comply
28 with the notification requirements of Section 1962 ~~of the Civil~~
29 ~~Code~~.

30 ~~(e)~~

31 (f) (1) A landlord who violates this section shall be liable to
32 the tenant in a civil action for all of the following:

33 (A) Actual damages incurred by the tenant.

34 (B) An amount not to exceed one hundred dollars (\$100) for
35 each day or part thereof the landlord remains in violation of this
36 section. In determining the amount of the award, the court shall
37 consider proof of matters as justice may require; however, in no
38 event shall less than two hundred fifty dollars (\$250) be awarded
39 for each separate cause of action. Each subsequent or repeated
40 violation that is not committed contemporaneously with the initial

1 violation shall be treated as a separate cause of action and shall be
2 subject to a separate award of damages.

3 (2) The tenant may seek appropriate injunctive relief to prevent
4 continuing or further violation of the provisions of this section
5 during the pendency of the action. The remedy provided by this
6 section is not exclusive and does not preclude the tenant from
7 pursuing any other remedy which the tenant may have under any
8 other provision of law.

9 ~~(f)~~

10 (g) Nothing in this section shall be construed to affect the
11 authority of a public entity to take any other action that is
12 authorized by law to regulate the grounds for eviction, and this
13 section shall not, and shall not be construed to, preempt any local
14 ordinance governing the rights of tenants. This section is not
15 intended and it shall not be construed to be a limitation or constraint
16 on the authority or ability of a local government, as may otherwise
17 be provided by law, to require or provide tenant protections in
18 addition to the requirements of this section.

19 ~~(g)~~

20 (h) For purposes of this section, a “qualified rental unit” means
21 real property that is rented or leased for residential purposes,
22 including a single-family dwelling, duplex, apartment,
23 condominium, cooperative, townhouse, community apartments,
24 or residential hotels whose owner acquired the property through
25 foreclosure under a mortgage or a deed of trust or at a trustee’s
26 sale or a sale held pursuant to a judicial foreclosure proceeding,
27 or through a deed in lieu of foreclosure, including a sale of property
28 under the power of sale contained in any deed of trust or mortgage.
29 ~~This section shall apply to a qualified rental unit for one year after~~
30 ~~the trustee sale or other sale or transfer of interest described in this~~
31 ~~subdivision.~~

32 ~~(h)~~

33 (i) This section shall remain in effect only until January 1, 2013,
34 and as of that date is repealed, unless a later enacted statute, that
35 is enacted before January 1, 2013, deletes or extends that date.

36 SEC. 2. Section 2924.9 is added to the Civil Code, to read:

37 2924.9. (a) Notwithstanding any other provision of law, if
38 residential real property that is rented or leased for residential
39 purposes is acquired pursuant to a trustee’s sale or a sale of
40 foreclosure, Section 1940.97 shall apply.

1 (b) This section shall remain in effect only until January 1, 2013,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2013, deletes or extends that date.

O